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DA 03-2372

Released: June 18, 2003

DOMESTIC SECTION 214 APPLICATION FILED FOR ACQUISITION OF ASSETS OF 3 RIVERS FIBER OPTIC BY ONEEIGHTY COMMUNICATIONS OF MONTANA, INC.

NON-STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 03-134

On May 29, 2003, 3 Rivers Fiber Optic, Inc. ("3 Rivers F/O" or "Transferor") and OneEighty Communications of Montana, Inc. ("OneEighty MT" or "Transferee") (3 Rivers F/O and OneEighty MT, together, "Applicants") filed an application, pursuant to sections 63.03 and 63.04 of the Commission's rules,¹ for consent to transfer 3 Rivers F/O's subscriber base in Bozeman, Montana, to OneEighty MT.

Applicants originally filed for streamlined treatment under section 63.03(b)(2)(i) of the Commission's rules. Subsequently, Applicants filed an amendment to their application explaining that the proposed transaction did not qualify for streamlined treatment because 3 Rivers F/O is an affiliate of an independent, incumbent local exchange carrier (LEC) and, therefore, is a dominant carrier for the purposes of section 214 authorizations.² Applicants request expedited review of this non-streamlined application.

3 Rivers F/O, a competitive LEC, provides a full range of residential and business local exchange, switched and special access, custom calling, and information services in Bozeman. 3 Rivers F/O is a wholly-owned subsidiary of 3 Rivers Telephone Cooperative, Inc., a Montana rural telephone cooperative. Applicants state that no individual or entity owns an equity interest of 10% or more in 3 Rivers Telephone Cooperative, Inc.

OneEighty MT is a wholly owned subsidiary of OneEighty Communications, Inc., a Washington corporation qualified to do business in the State of Montana, whose principal business is telecommunications. OneEighty Communications, Inc. is a privately-owned corporation in which Greg Green, Chairman of the Board, holds a 50% equity interest and Chris

¹ 47 C.F.R. §§ 63.03, 63.04; *see* 47 U.S.C. § 214.

² *See* Letter from Michael J. Rieley, Attorney to Marlene H. Dortch, Secretary, Federal Communications Commission, WC 03-134 (filed July 8, 2001); *see also* 47 C.F.R. §§ 63.03(b)(2)(i), (b)(3).

Dimock, Chief Executive Officer and President, holds an 11% equity interest.

In this proposed transaction, 3 Rivers Fiber Optic, Inc. is selling its assets in one exchange, *i.e.*, Bozeman, Montana, to OneEighty MT. The Bozeman exchange is located in south central Montana, a rural area. According to the Applicants, the exchange serves portions of Gallatin County, Montana, a county with a population of 67,831. Applicants state that this proposed transaction involves approximately 500 access lines in the Bozeman exchange.

3 Rivers F/O acquired the Bozeman assets from Western CLEC Corporation on November 16, 2001. The Bozeman exchange acquisition was part of a larger transaction in which 3 Rivers F/O was acquiring competitive LEC operations within the state of Montana. The Bozeman exchange transaction involved a small "island" exchange in the state of Montana as part of a larger series of transactions that would allow 3 Rivers F/O to establish a competitive presence in selective geographic markets. However, Applicants state that 3 Rivers F/O was ultimately unable to achieve a desired economy of scale with the Bozeman assets.

Applicant assert that grant of this transaction will serve the public interest, convenience, and necessity by promoting competition among telecommunications carriers. Specifically, Applicants contend that approval of the proposed transaction will enable a new entrant to establish a competitive presence in a select geographic market and concentrate its resources and expertise on providing innovative and diversified service offerings for consumers in this market. Applicants state that OneEighty MT will provide comparable services when it takes ownership of the Bozeman assets.

GENERAL INFORMATION

The acquisition of assets identified herein has been found, upon initial review, to be acceptable for filing as a non-streamlined application. The Commission reserves the right to return any acquisition of assets application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Interested parties may file **comments within 14 days** and **reply comments within 21 days** of this notice.³ Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or

³ See 47 C.F.R. § 63.03(a).

rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the subject line "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

In addition, one copy of each pleading must be sent to each of the following:

- (1) the Commission's duplicating contractor, Qualex International, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554; e-mail: qualexint@aol.com; facsimile: (202) 863-2898; phone: (202) 863-2893.
- (2) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C437, Washington, D.C. 20554; e-mail: twilson@fcc.gov, and
- (3) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 6-A461, Washington, D.C. 20554; e-mail: dcjohnso@fcc.gov, and
- (4) William Dever, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C266, Washington, D.C. 20554; e-mail: wdever@fcc.gov; and
- (5) Christopher Killion, Office of General Counsel, 445 12th Street, S.W., Room 8-C740, Washington, D.C. 20554; e-mail: ckillion@fcc.gov.

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail

qualexint@aol.com.

For further information, please contact Tracey Wilson, at (202) 418-1394, or Dennis Johnson (202) 418-0809.

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